

117TH CONGRESS  
1ST SESSION

# H. R. 6014

To establish a commission to study the war in Afghanistan.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2021

Mr. KIM of New Jersey (for himself and Mr. MEIJER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a commission to study the war in Afghanistan.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Afghanistan War Com-  
5       mission Act of 2021”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8                   (1) APPLICABLE PERIOD.—The term “applica-  
9                   ble period” means the period beginning June 1,  
10                  2001, and ending August 30, 2021.

1                             (2) APPROPRIATE CONGRESSIONAL COMMIT-  
2                             TEES.—The term “appropriate congressional com-  
3                             mittees” means—

4                                 (A) the Committee on Armed Services of  
5                             the Senate;

6                                 (B) the Committee on Foreign Relations of  
7                             the Senate;

8                                 (C) the Select Committee on Intelligence of  
9                             the Senate;

10                                 (D) the Committee on Appropriations of  
11                             the Senate;

12                                 (E) the Committee on Armed Services of  
13                             the House of Representatives;

14                                 (F) the Committee on Foreign Affairs of  
15                             the House of Representatives;

16                                 (G) the Permanent Select Committee on  
17                             Intelligence of the House of Representatives;  
18                             and

19                                 (H) the Committee on Appropriations of  
20                             the House of Representatives.

21                                 (3) INTELLIGENCE COMMUNITY.—The term  
22                             “intelligence community” has the meaning given  
23                             that term in section 3(4) of the National Security  
24                             Act of 1947 (50 U.S.C. 3003(4)).

1     **SEC. 3. ESTABLISHMENT OF COMMISSION.**

2         (a) ESTABLISHMENT.—There is established in the  
3 legislative branch an independent commission to be known  
4 as the Afghanistan War Commission (in this Act referred  
5 to as the “Commission”).

6         (b) MEMBERSHIP.—

7             (1) COMPOSITION.—The Commission shall be  
8 composed of 16 members of whom—

9                     (A) 1 shall be appointed by the Chairman  
10                     of the Committee on Armed Services of the  
11                     Senate;

12                     (B) 1 shall be appointed by the ranking  
13                     member of the Committee on Armed Services of  
14                     the Senate;

15                     (C) 1 shall be appointed by the Chairman  
16                     of the Committee on Armed Services of the  
17                     House of Representatives;

18                     (D) 1 shall be appointed by the ranking  
19                     member of the Committee on Armed Services of  
20                     the House of Representatives;

21                     (E) 1 shall be appointed by the Chairman  
22                     of the Committee on Foreign Relations of the  
23                     Senate;

24                     (F) 1 shall be appointed by the ranking  
25                     member of the Committee on Foreign Relations  
26                     of the Senate;

1                             (G) 1 shall be appointed by the Chairman  
2                             of the Committee on Foreign Affairs of the  
3                             House of Representatives;

4                             (H) 1 shall be appointed by the ranking  
5                             member of the Committee on Foreign Affairs of  
6                             the House of Representatives;

7                             (I) 1 shall be appointed by the Chairman  
8                             of the Select Committee on Intelligence of the  
9                             Senate;

10                            (J) 1 shall be appointed by the ranking  
11                             member of the Select Committee on Intelligence  
12                             of the Senate;

13                            (K) 1 shall be appointed by the Chairman  
14                             of the Permanent Select Committee on Intel-  
15                             ligence of the House of Representatives;

16                            (L) 1 shall be appointed by the ranking  
17                             member of the Permanent Select Committee on  
18                             Intelligence of the House of Representatives;

19                            (M) 1 shall be appointed by the majority  
20                             leader of the Senate;

21                            (N) 1 shall be appointed by the minority  
22                             leader of the Senate;

23                            (O) 1 shall be appointed by the Speaker of  
24                             the House of Representatives; and

(P) 1 shall be appointed by the Minority Leader of the House of Representatives.

(C) be a current or former registrant under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

22 (D) have previously investigated Afghani-  
23 stan policy or the war in Afghanistan through  
24 employment in the office of a relevant inspector  
25 general;

(E) have been the sole owner or had a majority stake in a company that held any United States or coalition defense contract providing goods or services to activities by the United States Government or coalition in Afghanistan during the applicable period; or

(F) have served, with direct involvement in actions by the United States Government in Afghanistan during the time the relevant official served, as—

(i) a cabinet secretary or national security adviser to the President; or

(ii) a four-star flag officer, Under Secretary, or more senior official in the Department of Defense or the Department of State.

(4) DATE.—

(A) IN GENERAL.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(B) FAILURE TO MAKE APPOINTMENT.—If an appointment under paragraph (1) is not made by the appointment date specified in subparagraph (A)—

7 (c) PERIOD OF APPOINTMENT; VACANCIES.—

8                         (1) IN GENERAL.—A member of the Commis-  
9                         sion shall be appointed for the life of the Commis-  
10                        sion.

11                   (2) VACANCIES.—A vacancy in the Commis-  
12                   sion—

17 (d) MEETINGS.—

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

4       (e) CO-CHAIRPERSONS.—The Commission shall se-  
5 lect, by a simple majority vote—

(1) 1 Co-Chairperson from the members of the Commission appointed by chairpersons of the appropriate congressional committees; and

9                         (2) 1 Co-Chairperson from the members of the  
10                         Commission appointed by the ranking members of  
11                         the appropriate congressional committees.

## 12 SEC. 4. PURPOSE OF COMMISSION

13 The purpose of the Commission is—

## 23 SEC. 5. DUTIES OF COMMISSION.

24 (a) STUDY —

1                         (1) IN GENERAL.—The Commission shall con-  
2 duct a thorough study of all matters relating to com-  
3 bat operations, reconstruction and security force as-  
4 sistance activities, intelligence operations, and diplo-  
5 matic activities of the United States pertaining to  
6 the Afghanistan during the period beginning Sep-  
7 tember 1, 1996, and ending August 30, 2021.

8                         (2) MATTERS STUDIED.—The matters studied  
9 by the Commission shall include—

10                         (A) for the time period specified under  
11 paragraph (1)—

12                         (i) the policy objectives of the United  
13 States Government, including—

14                             (I) military objectives;

15                             (II) diplomatic objectives;

16                             (III) development objectives; and

17                             (IV) intelligence objectives;

18                         (ii) significant decisions made by the  
19 United States, including the development  
20 of options presented to policymakers;

21                         (iii) the efficacy of efforts by the  
22 United States Government in meeting the  
23 objectives described in subsection (A), in-  
24 cluding an analysis of—

25                             (I) military efforts;

## (II) diplomatic efforts;

(III) development efforts; and

(IV) intelligence efforts; and

(iv) the efficacy of counterterrorism

efforts against al Qaeda, the Islamic State

Khorasan Province, and other foreign ter-

rrorist organizations in degrading the will

8 and capabilities of such organizations—

(I) to mount external attacks

against the United States mainland or

its allies and partners; or

(II) to threaten regional stability

in Afghanistan and neighboring coun-

tries;

(B) the efficacy of metrics, measures of ef-

effectiveness, and milestones used to assess

progress of diplomatic, military, and intelligence

efforts;

(C) the efficacy of interagency planning

and execution process by the United States

Government;

(D) factors that led to the collapse of the

## Afghan National Defense Security Forces in

2021, including—

(i) training;

(ii) assessment methodologies;

(iii) building indigenous forces on

### 3 western models;

(iv) reliance on technology and logis-

<sup>5</sup> See also the discussion in section 3.2 above.

(v) reliance on warfighting enablers

7 provided by the United States;

(E) the efficacy of counter-corruption ef-

forts to include linkages to diplomatic lines of

effort, linkages to foreign and security assist-

ance, and assessment methodologies;

(F) the efficacy of counter-narcotic efforts

13 to include alternative livelihoods, eradication,

interdiction, and education efforts;

(G) the role of countries neighboring Af-

<sup>16</sup> ghanistan in contributing to the instability of

manistan; and

18 (H) varying diplomatic approaches between

## Presidential administrations.

**20 (b) REPORT REQUIRED.—**

(1) IN GENERAL.—

(A) ANNUAL REPORT.—

(j) IN GENERAL—Not later than 1

year after the date of the initial meeting of

the Commission and annually thereafter.

1                   the Commission shall submit to the appropriate congressional committees a report  
2                   describing the progress of the activities of  
3                   the Commission as of the date of such report,  
4                   including any findings, recommendations,  
5                   or lessons learned endorsed by the  
6                   Commission.

7  
8                   (ii) ADDENDA.—Any member of the  
9                   Commission may submit an addendum to a  
10                  report required under clause (i) setting  
11                  forth the separate views of such member  
12                  with respect to any matter considered by  
13                  the Commission.

14                  (iii) BRIEFING.—On the date of the  
15                  submission of the first annual report, the  
16                  Commission shall brief Congress.

17                  (B) FINAL REPORT.—

18                  (i) SUBMISSION.—Not later than 3  
19                  years after the date of the initial meeting  
20                  of the Commission, the Commission shall  
21                  submit to Congress a report that contains  
22                  a detailed statement of the findings, recom-  
23                  mendations, and lessons learned en-  
24                  dorsed by the Commission.

18                   (3) SUBSEQUENT REPORTS ON DECLASSIFICA-  
19                   TION.—

(A) IN GENERAL.—Not later than 4 years after the date that the report required by paragraph (1)(B) is submitted, each relevant agency of jurisdiction shall submit to the committee of jurisdiction a report on the efforts of such agency to declassify such annex.

(B) CONTENTS.—Each report required by  
subparagraph (A) shall include—

(ii) a broad description of items in the annex that the agency is declining to declassify at the time of the report; and

## **15 SEC. 6. POWERS OF COMMISSION.**

16       (a) HEARINGS.—The Commission may hold such  
17 hearings, take such testimony, and receive such evidence  
18 as the Commission considers necessary to carry out its  
19 purpose and functions under this Act.

20 (b) ASSISTANCE FROM FEDERAL AGENCIES.—

21 (1) INFORMATION.—

17       (c) POSTAL SERVICES.—The Commission may use  
18 the United States mails in the same manner and under  
19 the same conditions as other departments and agencies of  
20 the Federal Government.

21       (d) GIFTS.—The Commission may accept, use, and  
22 dispose of gifts or donations of services, goods, and prop-  
23 erty from non-Federal entities for the purposes of aiding  
24 and facilitating the work of the Commission. The author-  
25 ity in this section does not extend to gifts of money. Gifts

1 accepted under this authority shall be documented, and  
2 conflicts of interest or the appearance of conflicts of inter-  
3 est shall be avoided. Subject to the authority in this Act,  
4 commissioners shall otherwise comply with rules set forth  
5 by the Select Committee on Ethics of the Senate and the  
6 Committee on Ethics of the House of Representatives gov-  
7 erning employees of the Senate and the House of Rep-  
8 resentatives.

9       (e) LEGISLATIVE ADVISORY COMMITTEE.—The Com-  
10 mission shall operate as a legislative advisory committee  
11 and shall not be subject to the provisions of the Federal  
12 Advisory Committee Act (Public Law 92–463; 5 U.S.C.  
13 App) or section 552b, United States Code (commonly  
14 known as the Government in the Sunshine Act).

15 **SEC. 7. COMMISSION PERSONNEL MATTERS.**

16       (a) COMPENSATION OF MEMBERS.—A member of the  
17 Commission who is not an officer or employee of the Fed-  
18 eral Government shall be compensated at a rate equal to  
19 the daily equivalent of the annual rate of basic pay pre-  
20 scribed for level IV of the Executive Schedule under sec-  
21 tion 5315 of title 5, United States Code, for each day (in-  
22 cluding travel time) during which the member is engaged  
23 in the performance of the duties of the Commission.

24       (b) TRAVEL EXPENSES.—A member of the Commis-  
25 sion shall be allowed travel expenses, including per diem

1 in lieu of subsistence, at rates authorized for employees  
2 of agencies under subchapter I of chapter 57 of title 5,  
3 United States Code, while away from their homes or reg-  
4 ular places of business in the performance of services for  
5 the Commission.

6 (c) STAFF.—

7 (1) STATUS AS FEDERAL EMPLOYEES.—Not-  
8 withstanding the requirements of section 2105 of  
9 title 5, United States Code, including the required  
10 supervision under subsection (a)(3) of such section,  
11 the members of the commission shall be deemed to  
12 be Federal employees.

13 (2) EXECUTIVE DIRECTOR.—The Commission  
14 shall appoint and fix the rate of basic pay for an Ex-  
15 ecutive Director in accordance with section 3161(d)  
16 of title 5, United States Code.

17 (3) PAY.—The Executive Director, with the ap-  
18 proval of the Commission, may appoint and fix the  
19 rate of basic pay for additional personnel as staff of  
20 the Commission in accordance with section 3161(d)  
21 of title 5, United States Code.

22 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-  
23 eral Government employee may be detailed to the Commis-  
24 sion without reimbursement, and such detail shall be with-  
25 out interruption or loss of civil service status or privilege.

1       (e) PROCUREMENT OF TEMPORARY AND INTERMIT-  
2 TENT SERVICES.—The Co-Chairpersons of the Commis-  
3 sion may procure temporary and intermittent services  
4 under section 3109(b) of title 5, United States Code, at  
5 rates for individuals that do not exceed the daily equiva-  
6 lent of the annual rate of basic pay prescribed for level  
7 V of the Executive Schedule under section 5316 of that  
8 title.

9 **SEC. 8. TERMINATION OF COMMISSION.**

10       The Commission shall terminate 90 days after the  
11 date on which the Commission submits the report required  
12 under section 5(b)(1)(B).

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14       (a) IN GENERAL.—Of the funds appropriated to the  
15 legislative branch, \$3,000,000 from the Afghanistan Secu-  
16 rity Forces Fund may be made available to carry out the  
17 activities of the Commission.

18       (b) AVAILABILITY.—Any sums appropriated under  
19 the authorization contained in this Act shall remain avail-  
20 able, without fiscal year limitation, until the date of the  
21 termination of the Commission under section 8.

